

### CITY OF DANBURY

155 DEER HILL AVENUE DANBURY, CONNECTICUT 06810

PLANNING COMMISSION (203) 797-4525 (203) 797-4586 (FAX)

# MINUTES MAY 17, 2006

The meeting was called to order by Chairman Arnold Finaldi Jr. at 7:35 PM.

Present were John Deeb, Arnold Finaldi Jr. and Alternate Paul Blaszka. Also present was Associate Planner Jennifer Emminger.

Absent was Kenneth Keller, Matthew Kennedy, Edward Manuel and Alternate Joel Urice.

Chairman Finaldi asked Mr. Blaszka to take Mr. Manuel's place for the items on tonight's agenda.

Mr. Blaszka made a motion to accept the minutes of April 19, 2006 and May 3, 2006. Mr. Deeb seconded the motion and it was passed unanimously.

Mr. Blaszka then made a motion to deviate from the order of the agenda and move the following Continuation of Public Hearing to be the first item on tonight's agenda:

Blue Ribbon Development LLC – Application for (3) three-lot subdivision (1.17 acres) in the RA-8 Zone – "Jay 3 Subdivision" – 20 Deer Hill Ave. (#I16106) – Subdivision Code #05-08. Public hearing opened April 5, 2006 – first 35 days were up 5/10/06, 35 day extension granted to 6/14/06.

Mr. Deeb seconded the motion. Chairman Finaldi excused himself as he is abstaining from this matter. Mr. Blaszka then announced that since that only leaves him and Mr. Deeb, they do not have a quorum for this matter so it will be continued until the June 7<sup>th</sup> meeting. Chairman Finaldi returned and reiterated that there would be no discussion of this application this evening.

#### **PUBLIC HEARINGS**:

7:30 PM – <u>Eduardo Batista – Application for Special Exception to allow use ("Dunkin Donuts")</u> generating in excess of 500 vehicle trips per day – Osborne St. (#J12221) – SE #644.

Chairman Finaldi read the legal notice. Attorney Neil Marcus and Dainius Virbickas, PE spoke in favor of this. Mr. Virbickas said this is a vacant parcel in the CG-20 zone on which they are proposing a 2,160 sq.ft. Dunkin Donuts. He said all access to this parcel will be from

Springside Ave. He said they need to widen Springside Ave. to create the proper access. The abutting properties to the north are single family and above that is a Fire Station. They need to provide 17 parking spaces and one handicapped space. The State requires 14 spaces queuing for a drive-thru. There is municipal water and sewer available and they have designed a storm drainage system for on-site detention. They need to add trees along the frontage and the parking isles to comply with the landscaping requirements. They also are proposing a stockade fence to screen the north and east property lines. They are currently addressing some of the Departmental comments that they have received.

Alan Mess from Barkan & Mess, said this is a corner lot with the access being located as far back from intersection as permitted. Springside Ave. is narrower and basically serves single family homes. He said they received accident information from the Police Department for a three year period and there were four reportable accidents at the intersection. They also did traffic counting in February of this year. He said Dunkin Donuts is basically a morning type facility with traffic lessening during the day with an average 200 trips in the morning and 40 trips in the evening. About 60% of the traffic is already on this street with an additional 40% due to this Dunkin Donuts. He said it is difficult turning into and making a left turn out of Springside Ave. due to the narrowness of the road. He said they want to discourage parking along Springside Ave. and they recommend no parking signs be posted along that frontage. Chairman Finaldi asked if someone is waiting to turn left into Springside, is there enough room for someone to pass them on the right side. Mr. Mess said he doubts it is wide enough for that. Chairman Finaldi said this is especially important due to the proximity of the Fire Station and Danbury Hospital. Mr. Mess said in that situation, the emergency vehicles would have to use the alternate route of Locust Ave. Mr. Blaszka asked if there was any thought given to a creating a bypass lane. Mr. Mess said it is not feasible, mostly because it would be way too expensive to acquire the necessary land.

Attorney Marcus said he had received the Fire Marshal's letters but did not quite understand them. He also questioned the comment about the traffic information being five years old, saying he does not know what information they were looking at. He referred to the second letter and questioned the comments regarding Osborne St.. He said it may have too much traffic but that has nothing to do with Springside Ave. as this traffic already exists. If there is too much traffic and the Fire Station is prevented from getting out, there are solutions but that is a problem that has nothing to do with this application. He suggested if the City is worried about traffic on Osborne they might want to consider installing a light that turns red when the door to the Fire Station is open. He suggested the Commission might want to ask the Fire Marshal to explain his report. He said this is a significant improvement to the neighborhood as it will clean up the site and put it back on the tax rolls. The applicant has several other businesses in the area and has demonstrated that they take care of their properties. He then suggested that this is part of an overall upgrade to the area starting with the new Hospital building.

Mrs. Emminger said there were a couple of points in her staff report that she wanted to bring up. She asked if they have a noise study ready for the next meeting. Attorney Marcus said they provided it for the South Main St location and this is the same situation. Mrs. Emminger asked him to tailor it for this site and also provide the requested lighting plan. She asked if there is any contamination on this site due to its previous use. Attorney Marcus said there is a study being done regarding this issue. Mrs. Emminger asked that they provide a summary of the report to the Commission.

Chairman Finaldi asked if there was anyone to speak in opposition to this application and several people came forward.

Lila Shaker, 206 Osborne St., said she has lived there since 1957. She said this proposal will bring at least 500 cars into this neighborhood and back up traffic on all of the surrounding streets. There are many children who walk to the schools in this area, the crosswalk has crossing guard to help the children get across the street. She said Springside Ave. is not level with Osborne St. and that often causes visibility problems. She said there already is a tremendous amount of traffic in this area for many reasons: Fire Station 23 is less than 500 ft away from this intersection, school buses travel this roadway all day long, and there are four large medical office buildings in the immediate area. She said there are many, many accidents in this area and she has cars driving into her yard all the time. She said she has to hold her breath to pull out onto Osborne St. She said there are cars speeding on this road all the time and since Garamella Blvd. was built, Osborne St. has become a thruway. The pollution from the cars will cause damage to the health of the neighborhood. She said the hours a Dunkin Donuts is open are not conducive to the abutting residential properties. She also mentioned that this area becomes extremely dangerous in the winter weather. Chairman Finaldi asked what goes on there now and she said A-1 Towing owns it. It was cleaned up about three years ago, but no contaminated soils were removed. A-1 had brought in about 100 cars, but they were told they couldn't store them all there, so they had to remove them.

Carla & Mark Pierce, 7 Springside Ave., said they live diagonally across the street. Mrs. Pierce said she has lived there all of her life and the addition of 500 vehicles per day will make an already dangerous situation worse. She said they did their own counts at the Dunkin Donuts on South St. and the traffic never stopped. She said her research at the Police Department found many more accidents than their report listed. She said the crossing guard who is at the Fire Station everyday, Rhonda Williams, said this is so dangerous because people speed on this road and cannot stop. She said she had to watch all the time to be sure that no children get hurt. Mrs. Pierce then said there is the safety issue and the possible light and noise pollution. She added that her son is 12 and rides his bike on Springside Ave. so she is really worried about the traffic. She said this is a residential neighborhood with the exception of three commercial lots, this being one of them. It would be detrimental to the entire neighborhood. Mr. Pierce then asked where they would get the land to be able to widen the road. He said this intersection was just redone 5 years ago. He then asked since there isn't enough room for a car to pass on the right when someone is waiting to turn left into Springside Ave., what will happen if a fire truck or ambulance has to get by. Mr. Virbickas came forward and showed Mr. Pierce on the map where they would widen the road. Mr. Pierce said they definitely will need a traffic light there because no one will be able to get out of Springside Ave. He added that a paving company that just bought one of these commercial lots and they are not going to be happy about this either. Mrs. Pierce said this will definitely be a safety hazard as the additional traffic it will create could potentially block the fire trucks from getting out in an emergency.

Clifford Kaiser, 17A Springside Ave. said he just wanted to reiterate what has already been said. He said it is difficult to get out now and based on the way traffic backs up at other Dunkin Donuts, it will only get worse.

Lynn Waller, 83 Highland Ave., said enough has been said about traffic so she will not say more, although it will get worse with this proposal. She said this is an assault on the neighborhood and she is concerned about the noise pollution. She referenced a residential

neighborhood that abuts a drugstore that has a speaker and the residential neighbors can hear it all night long. She then mentioned the lighting and said she hopes it will not be an additional annoyance to the residential neighbors.

Pauline Basso, 8 Hoyt St., said her concern is for the children. If they plant trees in front along Osborne St., they may cause an obstruction. The sight line is already atrocious with cars coming from several different directions. She said she had spoken with the Firemen at the Fire Station and they said when they sit outside they can watch more people run the stop sign than stop at it. Again her concern is for the safety of the children in this area.

Attorney Marcus then spoke in rebuttal to the opposition's comments. He said they are proposing sidewalks because they want the children to be safe. The need for a traffic light will be addressed at next meeting by Mr. Mess, but the applicant has no problem with installing one. He then said although it does sound like one is already necessary so the Commission cannot legally burden this applicant with providing one. The noise issues will be looked into and they will provide the requested report at the next meeting. He said there is no question that Springside Ave. is a residential zone, but there is that section located at the intersection with Osborne St. that is zoned CG-20 which is the most intense commercial zone. He said regarding the concerns about the lighting being on all hours, this will not be a 24 hour operation. Mrs. Basso mentioned her concern that the trees will block the sight line and if that is the case they will remove them. The trees are there because the Regulations require it. He said they would be happy to have the access from Osborne St., but the Regulations require it be located on Springside Ave. He then compared this to the Hayestown Ave. Dunkin Donuts which also has access from a side street and is located directly across the street from two schools. There has been no incident of any children being hurt because the Dunkin Donuts is located there. He said any commercial use would have to enter from Springside Ave. unless the Regulations are changed. He said they have agreed to continue the hearing so they can address the neighbors concerns. Mr. Blaszka asked about the accident reports to be submitted by next meeting. Attorney Marcus said the neighbor who counted accidents must have looked at a larger area than they did. Mrs. Emminger asked that he get that information to her ASAP so she can get it to the Commission members. Mr. Blaszka asked if there is a crosswalk from Springside to Osborne? Chairman Finaldi said the problem is that it is right where the traffic splits, so it would be difficult to put it there. Mrs. Emminger said cut-throughs were mentioned using some side streets and she asked that Mr. Mess address it. Attorney Marcus said regarding the noise affecting Ms. Shaker's property, Mr. Virbickas said it will be four spaces back from the pick-up window. Mrs. Emminger said the concern is for queuing and cars idling and emitting pollution. She then asked when they would get their deliveries. Mr. Batista said they come by box truck (16 foot) twice a day. She said she requested a maneuvering plan to demonstrate that trucks can get in and out. Attorney Marcus said they would provide all of the requested information.

Mr. Blaszka made motion to continue the public hearing. Mr. Deeb seconded the motion and it was passed unanimously.

#### CONTINUATION OF PUBLIC HEARINGS:

Michael B. Kelly & Kelly McCuin-Kelly – Application for (2) two-lot Re-subdivision (1.194 acres) in the RA-20 Zone – "Kelly Subdivision" – 104 Great Plain Rd. (#J08111) – Subdivision Code #06-01. *Public hearing opened 5/3/06 – 35 days will be up 6/7/06.* 

Dainius Virbickas PE, said the responses to previous comments and the additional drainage information were submitted today. They also added sidewalks, curbing and trees to the site. Mrs. Emminger said the revised plans will be sent to Engineering, Highway and the Health Department.

Chairman Finaldi asked if there was anyone to speak in opposition to this and there was no one.

Mr. Deeb made a motion to continue the hearing. Mr. Blaszka seconded the motion.

#### OLD BUSINESS FOR CONSIDERATION AND POSSIBLE ACTION:

James Blansfield – Application for two (2) lot re-subdivision of Lot 2 (5.48 acres) in the RA-40 Zone – "The Estates at Middle River" – 49 Middle River Rd. (#E12001) – Subdivision Code #04-01. Public hearing closed April 19, 2006 – 65 days will be up 6/23/06.

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Mrs. Emminger said the resolution included the two issues that had been a concern throughout the entire review: a deed restriction prohibiting any further subdivision of these properties, and a requirement than an as-built plan and profile of common drive is submitted before the final okay is given from Zoning. She added that Engineering had reviewed the alternate driveway plan and still felt that a roadway should be constructed. Mr. Blaszka then made a motion to approve this per the amended resolution. Mr. Deeb seconded the motion.

City of Danbury – Application for (2) two-lot subdivision (243.14 acres) in the IL-40 Zone – "West Side Fire Station – Engine 26" - Kenosia Ave. Ext. (#G18001) – Subdivision Code #06-06. There will be no public hearing on this matter- first 65 days will be up 6/23/06.

Mr. Deeb made a motion to table this matter. Mr. Blaszka seconded the motion and it was passed unanimously..

Review & Issue recommendation to the CT Siting Council for Application of Optasite Inc. for a Wireless Telecommunications Facility proposed to be located at 52 Stadley Rough Rd. *This hearing will only result in a recommendation to the CT Siting Council, as this matter is under their jurisdiction. The City has been invited to review and comment on this, although the ultimate decision will be made by the Siting Council.* PUBLIC HEARING HELD & CLOSED 5/3/06 – FINAL RECOMMENDATION NEEDS TO BE MADE AT THIS MEETING.

Chairman Finaldi said he listened to the tapes, reviewed the file and read the minutes. Mrs. Emminger said she had prepared a letter summarizing all of the reports, as well as the Commission's and the general public's comments. She said she had referred this to the Candlewood Lake Authority and their recommendation will be forwarded to the Siting Council along with our recommendation. This letter contains concerns about the proposed tower height, design, safety issues and aesthetics. The applicant did not adequately demonstrate the public need for a tower of this height, nor did they go far enough in looking for additional sites. It seems to have many more slots than what is needed for the proposed tenants as specified. Chairman Finaldi said some of the alternative shielding methods they proposed were not really desirable either, citing an example of an antenna made to look like a pine tree pole on the Interstate in NY. Mr. Blaszka said the City staff was not given adequate time to review

the alternate locations. He said safety is always a concern and this is located too close to the church itself. The issue of it being an attractive nuisance would draw the children to it since it looks like a fun place. The proximity to the wetlands is an issue and the overall aesthetics are not satisfactory. Alternative sites must be explored and they really need to demonstrate the need for new or additional service. Chairman Finaldi said Mrs. Emminger did a good job addressing all of the issues and comments. Mrs. Emminger then reviewed all of the exhibits, her staff report, the comments from Paul Estefan (Airport) and Dan Baroody (Health/Environmental), copies of the letters to the editors (News-Times), and the letter to the Siting Council. There was a brief discussion of how the recommendation should be made.

Mr. Blaszka made a motion to send a negative recommendation to the Siting Council with reasoning based on the letter drafted by Mrs. Emminger paying particular attention to pages 1-3 of the letter. Mr. Deeb seconded the motion and it was passed unanimously.

First Nine Corporation – Application for five (5) lot subdivision (2.767 acres) in the RA-20 Zone and Request for Waiver to Portions of Chap. 4, Secs. B.11. & B.12. of the Subdivision Regulations - "Butler Ridge" - 36 Golden Hill Rd. & Ford Lane (#H11055 & #H11276) -Subdivision Code #05-11. Public hearing closed 5/3/06 – 65 days will be up 7/7/06.

Mr. Deeb made a motion to table this until the next meeting. Mr. Blaszka seconded the motion and it was passed unanimously..

RDB Associates - Request for Floodplain Permit - "Elmer's Diner", 22-24 Padanaram Rd. (#H10124 & #H10125) - SP #00~09.

Mrs. Emminger said there had been a previous Floodplain Permit issued for this site in August 2003 for Ann's Place. She said since the proposed use has changed to a restaurant and they had to add a basement, the Floodplain Permit must be revised. Mr. Blaszka suggested that the second paragraph be amended to show the year 2003. Mr. Deeb made a motion to approve this request. Mr. Blaszka seconded the motion and it was passed unanimously..

#### NEW BUSINESS:

1) Pharmaceutical Discovery Corp. - Application for Special Exception to allow a use ("Mannkind Corporation") generating in excess of 500 vehicle trips per day – Casper St. (#J14207) – SE #645. Public hearing scheduled for June 21, 2006.

Chairman Finaldi noted that this application would be on file in the Planning & Zoning Office.

### **REFERRALS:**

- 8-24 Referral/January 4th CC Agenda Item #10 Carla Drive. Tabled at 1/18/06 meeting pending comments from Engineering.
- 8-24 Referral/February 7<sup>th</sup> CC Agenda Item 26 Eagle Road Center LLC Transfer of Property to City of Danbury. Tabled at the 3/1/06 meeting for additional info.

Mr. Blaszka made a motion to table these two items. Mr. Deeb seconded the motion and it was passed unanimously.

# <u>8-24 Referral/May 3<sup>rd</sup> CC Agenda Item 22 – Request for Sewer & Water Extensions/20</u> Eastwood Rd. (#G09061)

This is a proposal for a single-family residence on a lot that is not currently served by either utility. It is within Proposed Water and Sewer Service areas as shown in the Plan of Conservation and Development. Mr. Blaszka made a motion to give this a positive recommendation provided the design and construction is in accordance with City standards. Mr. Deeb seconded the motion and it was passed unanimously.

# <u>8-24 Referral/May 3<sup>rd</sup> CC Agenda Item 23 – Request for Sewer & Water Extensions/60 Forest Ave.</u> (#I11173)

This also is for a proposed single-family residence. Again the lot is within both the Existing Water and Sewer Service areas as shown in the Plan of Conservation and Development. There was a previous request for this which was approved by the Common Council in February 2003. Mr. Deeb made a motion to give this a positive recommendation provided the design and construction is in accordance with City standards. Mr. Blaszka seconded the motion and it was passed unanimously.

## 8-24 Referral/May 3<sup>rd</sup> CC Agenda Item 24 – Request for Acceptance of Saugatuck Ridge Rd.

This road was approved as part of the subdivision approval of Saugatuck Ridge (#00-02) in 2000. The Engineering Department is currently inspecting the final construction of the road. There also is documentation that needs to be submitted to Engineering and Corporation Counsel. Mr. Blaszka made a motion to give this a positive recommendation subject to final inspection sign-off by the Engineering Department and submission of all required documentation to both Corporation Counsel and the Engineering Department. Mr. Deeb seconded the motion and it was passed unanimously.

8-3a Referral – Petition of Automotive Group Realty LLC & Danbury Automotive Realty LLC, 16 Starr Rd. & portion of 18-22 Starr Rd. (#K10069 & portion of #K10068) for Change of Zone from IL-40 to CG-20. Zoning Commission public hearing scheduled for June 13, 2006.

Mr. Blaszka made a motion to table this item pending receipt of the Staff Report. Mr. Deeb seconded the motion and it was passed unanimously.

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#### **OTHER MATTERS:**

Request for release of road bond for Carla Estates I & II (Carla Dr.) Subdivision Codes #02-04 & #03-01. Tabled since 1/4/06 meeting pending information from the Engineering Dept.

<u>Eagle Road Ctr. – Request for third reduction in bond amount per Waiver to Subdivision Regulations approved on September 15, 2004 – SUB #89-12 (aka SE #588/Lots 1 & 2). Tabled at 1/18/06 meeting pending information from the Engineering Dept.</u>

Mr. Blaszka made a motion to table both of these items pending additional information. Mr. Deeb seconded the motion and it was passed unanimously.

The Communications listed four Cease & Desist Orders and the For Reference Only listed four requests for Floodplain permits and four public hearings scheduled for June 7, 2006

At 9:40 PM, Mr. Deeb made a motion to adjourn. The motion was seconded by Mr. Blaszka.